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RIGHTS OF THE CHILD

Note by the secretariat

1. In its recommendation No. 5 adopted at its fourth session (CRC/C/20), the Committee on the Rights of the Child requested the Secretary-General to transmit to the Commission on Human Rights at its fiftieth session the preliminary draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts that the Committee had prepared at its third session (CRC/C/16, annex VII).

2. Pursuant to this request, the text of the preliminary draft optional protocol on involvement of children in armed conflicts is contained in the annex to the present document.

GE.93-85966 (E)

Annex

PRELIMINARY DRAFT OPTIONAL PROTOCOL ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS

The States Parties to the present Protocol,

Encouraged by the fact that an unprecedented number of States have to date become parties to the Convention, thereby demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection and call for continuous improvement of the situation of children all over the world, as well as for their development and education in conditions of peace and security,

Considering that to further implement the rights recognized in the Convention on the Rights of the Child, there is a need to strengthen the protection of children involved in armed conflicts,

Believing that the involvement in hostilities of persons who have not attained the age of 18 years is harmful for them physically and psychologically and affects the full implementation of the rights of the child, including the right to life,

Noting that article 1 of the Convention recognizes every human being below the age of 18 years to be a child, unless under the law applicable to the child, majority is attained earlier,

Recognizing that article 38 of the Convention admits recruitment of persons into armed forces and their direct participation in hostilities after the attainment of the age of 15 years,

Taking into account that many States Parties to the Convention have expressed their determination, including through unilateral declarations upon signature or ratification, not to recruit into their armed forces persons below the age of 18 years,

Convinced that an optional protocol to the Convention, raising the age of possible recruitment of persons into armed forces [and their direct participation in hostilities] to 18 years, will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children, while giving States Parties which find themselves in a position to do so the possibility to adhere to such a protocol,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that persons who have not attained the age of 18 years do not take part in hostilities.

Article 2

States Parties shall refrain from recruiting any person who has not attained the age of 18 years into their armed forces.

Article 3

Nothing in the present Protocol shall be construed so as to preclude provisions in the law of a State Party or in international instruments and international humanitarian law which are more conducive to the realization of the rights of the child.

Article 4

No reservation is admissible to the present Protocol.

Article 5

The States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures that they have adopted to give effect to the present Protocol.

Article 6

The provisions of the present Protocol shall apply to the States Parties instead of article 38, paragraphs 2 and 3, of the Convention.

Article 7

1. The present Protocol is open for signature by any State which is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations in his capacity as the depositary of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of the deposit of each instrument of ratification or accession to the Protocol.

Article 8

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 9

Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States which have signed the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General of the United Nations.

Article 10

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations together with the Convention on the Rights of the Child,

2. The Secretary-General of the United Nations shall transmit certified copies of this Protocol to all States Parties to the Convention and all States which have signed the Convention.